G R S. IX 5]

Previous references. 1897

~~191~~ .

(2nd)

Later references.

File No. 378

Serial Nos. 1–

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 5

Part B for July 1898.

SUBJECT.

Refund of duty ~~collected~~ on articles intended for the Barahazar Santarpane, at Subramanya.

Submitted
MMT
countersigned.

W D 88—GPB—50,000—24-7-16

Memo.

49 & 25-1-91

The Vice President of the Kalpam Municipality (Mr E. S. Krishnaswamier) wrote to the President (Mr Purnayya) stating that certain merchants of Kalpam refused paying octroi on Sugar, ghee, etca. on the ground that they were required for Bisile Chatra and Baraherzar Santarpane at Subrahmanyam.

He (Vice President) said that if the articles were sent out as soon as they were imported there would be no necessity for the levy of octroi thereon. On the other hand, he urged, these articles were kept in possession of octroi peons and sold in the town

thence be solicited
definite instructions

2. In reply to the above, the President said that since those articles were not intended for consumption within municipal limits, and were to be exported to Subrahmanya for Baraa hazar Santarpana, no octroi need be levied thereon; but stated that the collection of octroi should, as a rule, be made immediately, and ought not to be left in arrears

No 356 of 27-1-91

3. The Vice President, in reply, stated that it was impossible to collect octroi then and there as it could not be known, at the outset, what articles were kept for local consumption and what sent out. All they were finally exported from the town

No 52 of 30-1-91

4 The President replied that when there were

No 5197-3-91

/es they were received
without opening the
packages, free licence
should be given them
at once and full duty
should be levied on the
remaining articles—

5. In 1897-8 ~~the~~ ~~Collector~~ certain
articles of Sivaganga
Setty and Others in Tank
for the Barcharan
Santapane at
Labrahmanya but
sold at Kapan were
charged ~~Rs~~ 28/ a: octroi
thereon

6. On these merchants
complaining to the
Collector for a refund
of the octroi duty paid
by them, on the ground
that the articles were
not for local consumption
and that according
to the terms of the

Contract sale, they should be allowed duty free, he (Mr B.G. Krishna Menon) gave them an endorsement to the following effect:—

"There is no connection between the municipality and Municipal Dept The petitioners have been given rates even higher than those ruling in the market and they cannot claim any consideration."[4]

No 5559 of 23-11

7. The merchants appealed to Govt against this order and prayed for a refund of the duty for the following reasons:—

(1) That the order of the DC was contrary to practice and the orders (of the DC) of 1891

and (2) that Govt in para 2 of Pro No 350 of 9th July 97 directed that no duty should be levied on (a) articles not

Petn No 1827 of 8-1-98

intended for local con-
sumption (b) goods in
storage for purposes of
general sale & (c) goods
under bond etc.

0277 of 24-2-98 8. The DC was called upon
to report on the above
points

1323 of 30th June 98 9. He replied that the
terms of the Sale do
not provide any
exemption from duty,
that the rates paid
for the articles were higher
than the market rates
of the year as also the
rates of the previous
years, and that
'articles for local consump-
tion' meant, in his opinion,
articles intended for
sale within the Municipal limits (as,
in the present case)
but it would not
be free from objection

× vide his No 1251 of 16/6/98

Please see last
[illegible] 3357
No 16
27/6 [illegible]
[illegible]

and that therefore the petitioners did not deserve any concession.

Submitted for orders

Dr J 15/7

Gf.
5/7

The decision in this case will depend upon the meaning attached to the expression "articles for local consumption" taking it to mean "articles intended for consumption within Municipal limits" the Dr Court in 1891 exempted the articles from duty. The present Dr Court is of opinion that the expression ought to mean "articles intended for sale within municipal limits," as he believes that if the former meaning were given, there would be room for smuggling.

Para 14 of Ch-Court's Pro: printed at p 170 of the Rev. Manual recognizes the impossibility of strictly limiting the duty to the articles actually consumed within the city, owing to the difficulty of separating purchases for home local consumption from those made by residents of villages outside municipal limits.

It is, however, difficult to see how the present Dy Court's decision can be upheld as it is clearly stated that the articles, though sold in Karaeen, were distinctly intended for consumption at Subrahmanya.

In other points relied upon by the Dr Court that the rate given to the purchasers [illegible] actually higher than the market rate and that therefore they deserved no concession, seems to be quite outside the mark.

BR
16/7/28

Applicable to the case in hand.

This is not a case in which the articles are sold in any place as to the knowledge of the buyer that they are intended for consumption at Subrahmanya. The buyer may mean a little or a large amount.

Vide Gopalan Nambiar's case 23-7-28

Vide Gopalan Nambiar's case 23-7-28

Counsel for petitioner

The Collector, North Canara, Tellicherry

Dr Court's Proceedings No. 1779-Misc. dated 16-7-28

Call for a report on the case generally & with special reference to the following allegations

(1) That under the terms of the contract no duty was leviable

(2) That the question has long been against the levy of duty

(3) That there is an order of 1887 prohibiting exemption.

(4) That the articles in question were not bought for local consumption

19-2-98

Drafted MJ 21/2/98